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Item

Public hearing to provide a recommendation to the Board of County Commissioners regarding adopting the update to the Tulsa County Zoning Code.

Background

The Tulsa County Zoning Code was first adopted in 1980. Through the years, amendments were made but the structure and basics of the code remained unchanged over the years. In July 2021, Duncan Associates, was retained to help lead the code update effort.

Once the new code format was created, a Technical Team was formed to review the initial draft. The Technical Team consisted of staff members from Tulsa Planning Office, Tulsa County Inspections Department, and an attorney from the Tulsa County District Attorney's Office. Suggested edits were submitted and discussed during virtual meetings. Changes included adding regulations governing Marijuana-related uses, revising accessory building size regulations, adding two new "RS" districts (RS-1 and RS-2), incorporating new animal-keeping regulations in residential districts, and the addition of RV-living and accessory dwelling unit (ADU) regulations. The Technical Team also helped proofread, and review content for accuracy between the old Code and the updated Code.

The next step was the creation of a Work Group to serve as a sort of "sounding board" for review and discussion of key code changes before releasing a draft for public review. Each County Commissioner recommended three people to be a part of the Work Group. The group met in-person a total of five times and provided helpful feedback on a variety of issues, particularly as related to ensuring that the new code is not overly burdensome on farmers and rural landowners.

On August 17, 2022, the consultant presented an update of the progress on the Tulsa County Zoning Code at a Work Session. A link to the draft of the document was later emailed to the Planning Commissioners so they could review the document and provide feedback at the Work Session meeting on October 5, 2022. During the second work session, the consultant, Kirk Bishop, gave a presentation of the draft of the Tulsa County Zoning Code update.

The draft was open for public review and comments from October 7-21, 2022. The public was notified through various methods including emails to residents of unincorporated Tulsa County who subscribe to Tulsa Planning Office and the County Commissioner's email lists, a press release was issued and Fox 23 and Channel 6 featured stories about it, Tulsa Planning Office created a webpage that directed interested parties to the review draft, Tulsa County shared the information on their News and Inspections webpage, and a link to the draft was posted on the Facebook pages of Tulsa Planning Office and Tulsa County then reshared by others. Please see the attached public comments and the response to those comments.

Staff Recommendation

Staff recommends that TMAPC recommend approval of the Tulsa County Zoning Code update.

Next Step

- December – BOCC public hearing

Tulsa County Zoning Regulations Update

Public Review Draft Comments

The following table summarizes the substantive comments received on the public review draft of the county's updated zoning code, as well as the (consultant/staff) technical team's responses to those comments. Red underlined text indicates a change made in response to comment. Non-substantive comments (e.g., typographic errors) are not listed in the table.

No.	SECTION	PUBLIC COMMENT	Response
1	Sec. 1.040 Applicability and Jurisdiction	Does this section say that certain bodies (ie: government bodies) would be exempt from adhering to the zoning regulations?	No, this section merely states the county's zoning regulations do not apply to lands within cities (incorporated areas)
2	Sec. 1.040 Applicability and Jurisdiction	Will new regulations be retroactively enforced on existing businesses?	Nothing in this code will be retroactively enforced on existing businesses (assuming they were lawfully established).
3	Sec. 1.040 Applicability and Jurisdiction	Do HOA restrictions take precedent over county zoning regulations?	Yes, HOA restrictions do take precedence if they are more restrictive than these zoning regulations (See 1.080-C).
4	Table 2-2 Residential Building Types (in A Districts)	Why is single-section manufactured housing unit - SPECIAL EXCEPTION and multi-section manufactured housing unit - PERMITTED in AG-R district? I find single-wide a SPECIAL EXCEPTION for AG-R in current county zoning code, but I do not find reference to multi-wide in current county zoning code. Is the difference based on average size of living space of single vs. multi-section, or something else?	As you note, single-wides (now single-section) are currently a special exception and the county's practice has been to permit double-wides as of right. So, this just clarifies existing practice. Both single- and multi-section are defined in the definitions article under "manufactured housing"
5	Table 2-2 Residential Building Types (in A Districts)	Why does a detached house and one single section manufactured housing unit in AG-R require Special Exception approval, but a detached house and one multi-section manufactured housing unit is "Permitted"? Shouldn't they both be "S"?	This is the same regulation that applies under the county's current zoning code.
6	Table 2-2 Residential Building Types (in A Districts)	So, this means you are allowing more use of manufacture homes in the unincorporated areas? Why the change?	This is the same regulation that applies under the county's current zoning code. Manufactured housing units are allowed in the same districts as today.
7	Table 2-3 Agricultural District Lot and Building Regulations	Where is minimum lot width measured? If a minimum frontage on maintained public road is 30 feet, then is the minimum lot width not met?	The measurement of lot width is explained in Sec. 18.050 of the proposed code. It's basically the average distance between the side lots lines along the entire depth of the lot. This is the same as today (not a change).

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8	Table 3-2 Residential Building Types (in R Districts)	If a manufactured housing unit, single-section is Special Exception Approval Required, then why doesn't that requirement apply to all manufactured housing unit, multi-section?	This is the same regulation that applies under the county's current zoning code. The updated code isn't changing how (manufactured or stick-built) residential dwelling units are allowed.
9	Table 3-3 Residential District Lot and Building Regulations	In Table 2-3, minimum lot area is 2 Acres for AG and 1 acre for AG-R, however, RE in Table 3-3 minimum square feet is 22,500 sq ft which is 0.516 acres. Should RE minimum sq ft be 43,560 sq ft which equals 1 acre?	No, all the minimum lot area regulations referred to are correct. They are the same regulations that apply today.
10	Sec. 5.030 PK, Parking District	I think eliminating parking regulations is a bad idea.	Elimination of parking regulations is NOT proposed. The draft zoning merely proposes the elimination of the "PK" zoning district, which has never been used. Parking requirements are in Chapter 10 of the updated zoning code.
11	Table 6-1 Use Table	Short-term rentals (STRs) should be "S" not "P" in all R zoning districts	Permitting STRs as of right is thought to be a reasonable approach. (Note: they are permitted by right in CoT R districts)
12	Table 6-1 Use Table	Building or tower-mounted antennas should be an "S" not a "P"	Permitting building and tower-mounted antennas by-right outside of R districts is consistent with the current zoning code. Note: there are also federal regulations governing the types of telecommunications equipment that must be allowed by right (administrative approval).
13	Table 6-1 Use Table	Why isn't Grooming in AG an "S"?	Because it's not allowed today. Note: any use not currently shown as a "P" or "S" can be approved by the Board of Adjustment as a use variance.
14	7.060 Marijuana-Related Uses	Is this trying to prevent grow operations or are we having to comply with state law.	No, not trying to prohibit. The draft code permits grow operations and other marijuana-related uses, subject to a few reasonable conditions.
15	7.140-E Sexually oriented material may not be displayed to be visible from outside the building in which the use is conducted.	This is way too vague	"Sexually oriented materials" are defined in Sec. 6.050-N2. Not sure of what's meant by the reference to vagueness.
16	7.150 Short-Term Rentals	These regulations will have unintended consequences that I do not think you have through thru very well.	We welcome additional questions and clarifications about the alleged "unintended consequences."
17	7.190-A Purpose (Wireless Communications)	This Purpose statement represents a wholesale gutting of the existing Code. Allowing EMTs to watch moves in 4K on their phones does not improve health and safety. The	The telecommunication tower regulations of this draft are the same as apply today. Moreover, the county is barred by federal law from denying the ability to site

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		proposed statement strips any protections for those who will be forced to live near a tower.	telecommunication equipment based on electromagnetics or similar safety concerns.
18	Table 8-1 Accessory Building Coverage, Height, and Setback Regulations	Shouldn't the maximum height for an accessory building on a lot over one acre be 35 feet, like the limit on the house height?	Additional building height seems reasonable in more rural (larger lot) settings. The regulations in the draft have been revised from today's code in light of the fact that the BoA routinely waives or varies existing requirements that apply to accessory buildings.
19	8.040-C.2 Number of accessory dwelling units allowed	I have 11 acres on the Tulsa/Okmulgee County line. I already have one barn (30x30) and I would like another. On the size of my property, a one building limitation is ridiculous and it's overreaching, and I don't think that you should be able to tell me how many buildings that I can have on my own property.	This provision applies to accessory DWELLING UNITS, not barns or other accessory buildings. The updated code does not limit the ability to place multiple barns or accessory buildings on farm properties.
20	Table 8-2 Animal Unit Equivalencies	Who came up with these equivalencies? 3 horses per acre in AG-R is way too many unless you want them living on a dry lot/dirt. In some cases, even 1 horse per acre is too many if much of the acreage is taken up by the house, roadways, accessory buildings, barns, etc. Horse density is way too high.	Animal unit equivalencies come from Dept of Agriculture. The county's existing regulations do not currently address the keeping of horses outside of the AG district, although there are many instances of horses being kept on such properties today.
21	8.130-B.1.b Chickens and Domestic Fowl	"...if all animals are owned by the subject property owner" should be stricken from subsection.	<u>Yes, this language was in error and should not have been included. The draft has been revised to remove this language.</u>
22	8.130-B Chickens and Domestic Fowl	Why not allow free-range chickens in AG-R or R? Should allow them to free range and put them up at night.	Updated code does NOT prohibit outdoor/free-range chickens if they are kept in a fenced area.
23	Table 8-3: Bird Unit Equivalencies	Equivalent bird units is crazy. If you own 10 acres of AG-R or R, you can have 320 chickens! If you have 320 chickens, then you are producing chickens and/or eggs as a business not for personal use.	The code could impose an absolute cap on number of chickens, but such a cap is not thought to be necessary. It is important to note that running such a "business" is not allowed in AG-R and R districts, so there are other factors that would prevent such a large chicken-keeping operation. Also, there are a very few 10-acre or larger parcels in existence in AG-R or R districts.
24	8.130-Bb. "The keeping of roosters and on-site slaughter is prohibited"	This rule is more restrictive than City of Tulsa, which allows 1 rooster. Please reconsider and allow at least 1 rooster. We need the ability to reproduce our chickens, if necessary.	The keeping of roosters (as well pigs and goats) is a common source of complaints fielded by the county inspection office.

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			It is extremely rare for zoning codes to allow roosters (or poultry slaughtering) in residential districts.
25	8.160 Recreational Vehicle Living	So, the person has to get permission from the county to live in their RV for an extended period of time? So, Tulsa County wants to increase homelessness?	Living in RVs is currently prohibited in the county, so this is, in fact, a more lenient approach.
26	9.040-B Temporary Mobile Storage Units	Proposed regulations governing size of containers; time limits on use and number of containers allowed don't work and will cause multiple challenges for local businesses and property owners.	<u>The draft regulations have been revised to remove the temporary mobile storage unit regulations of Sec.9.040-B and 9.040-C.</u> In lieu of those regulations, the updated draft will expressly state that storage containers are permitted as accessory uses/structures, subject to compliance with applicable accessory structure/building regulations. These revisions will ensure that the updated code follows current county practices.
27	9.050-B Fireworks Retail Sales (Temporary Use)	The regulations in this section should apply only to temporary stands and tent locations. Indoor buildings should be exempt. Permits should be for 5 years rather than 3. Year-round sales are allowed by state and should be permitted in the zoning code.	The regulations in this section apply only to <u>fireworks retailers</u> and are consistent with state law and existing county zoning practice. By OK law, year-round sales of fireworks are allowed only for licensed manufacturers, distributors or wholesalers. Those uses are not eligible for temporary use approval, but instead require the appropriate zoning for "high-impact manufacturing and industry" or "wholesale sales and distribution" uses, respectively. See Table 6-1, Sec. 6.060-D, and Sec. 6.070-C.
28	11.030-E Temporary Signs	Opposed to proposed restrictions on temporary signs and banners. Should not require permits. Regulations will be difficult to enforce.	<u>The draft regulations have been simplified and relaxed. These revised "temporary and ancillary" sign regulations no longer impose time-limits on such signs and expressly state that permits are not required.</u>
29	14-010-E Neighbor Communications	Why is this required?	This provision merely states current practice. The provisions is intended merely as an early "heads-up" for applicants who may not be aware of the expectations of review/decision-making bodies. Boards and commissions request neighborhood communications for the reasons stated in Sec. 14-010-E.1 (a-c).
30	14.020-A Zoning Regulation Text Amendments	Should the code allow for correction of non-substantive text errors without a public hearing? Note: this was not a public comment.	<u>The draft regulations have been revised to authorize the correction of non-substantive typographical and formatting errors without following the formal text amendment process.</u>

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31	14.040-I Amendments to Approved Development Plans	<p>Need to add the following to the list of changes that may be processed as minor amendments to an approved PUD:</p> <ul style="list-style-type: none"> • The addition of an approved use may be permitted, provided the underlying zoning on the particular site within the PUD would otherwise permit such use as by right or special exception and the proposed use would not result in any increase of incompatibility with the present and future use of nearby properties. • Increases in the number of dwelling units, provided the approved number of dwelling units is permitted by the underlying zoning and the density of a development area is not increased more than 15%. • Increases in permitted nonresidential floor area, provided the increased floor area is permitted by the underlying zoning and floor area of a development area is not increased more than 15%. • Changes in points of access, provided the traffic design and capacity are not substantially altered. • Changes in structure heights, building setbacks, yards, driveway coverage measured by width, square footage or percentage of the yard, open spaces, building coverage and lot widths or frontages, provided the approved PUD development plan, the approved PUD standards and the character of the development are not substantially altered. • Home occupations that comply with the regulations of Section 8.120. 	<p><u>The draft regulations have been revised to include this expanded list of changes that may be processed as minor amendments to an approved PUD development plan.</u></p>
32	14.060-D Platting Requirement	<p>Do we really need the platting requirement to apply to all these Special Exceptions? We removed Bed and Breakfast from the City Code and in the city it only applies to Outdoor Assembly and Entertainment. I would also be inclined to pick exactly what Group living and "Public, Civic and Institutional Uses" would trigger it.</p>	<p>The list of uses subject to platting under this section is actually much reduced from the current code. <u>The draft regulations have been revised to remove bed & breakfasts uses.</u></p>
33	14-100-B Authorized Variances	<p>Should prohibit variances that "waive, modify or amend any definition or use classification."</p>	<p>Respectfully disagree. Adding that prohibition would constitute a major change from current county practice.</p>

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34	15.010-K Appeals to District Court	Is there statutory authority for requiring that the BoA provide notice to surrounding property owners when appeals are taken to District Court and that appellants pay notification costs? Note: this was not a public comment.	<u>The draft regulations have been revised to remove requirements calling (1) for notice to be provided to surrounding property owners and (2) for appellants to pay the costs of such notification.</u> Note: this change is intended to make the provisions consistent with Oklahoma Statutes.
35	Chapter 17 Enforcement	Is there is a way to fine property owners that violate some kind of a maintenance clause.	Property maintenance codes are not typically part of zoning regulations.
36	Chapter 17 Enforcement	Will it just be the "squeaky wheels" that the enforcement and penalties are placed on, or are inspectors going house to house and business to business to make sure no stone is un-turned and everyone is following the same requirements and rules?	"Enforcement" efforts are currently complaint-based and will be in future, as is true in most jurisdictions.
37	17.040-A Fines	Please advise how 17.040-A will be enforced? Is this something that needs to be added to the zoning code, so that citizens understand that specific process and how to engage it?	Under the updated code, monetary fines are one of several penalties or enforcement actions that may be imposed if property owners do not elect to comply with applicable regulations. The goal of zoning enforcement is to secure compliance, rather than to impose penalties on property owners. The process for seeking to obtain voluntary compliances, and if necessary, enforcement action will be same as today.
38	Chapter 19 ("Household" definition)	You need to allow homes with more than 8 individuals we do not have enough special needs homes in OK.	The code <u>does</u> allow larger group homes by special exception. See Table 6-1.
39	General Comment and 1.050-A	As I have read through this document, I find myself browsing back up to 1.050-A, re-reading one of the purposes of the proposed changes. I have asked many questions, which with each question I have gone back to your purpose which states "public health, safety and general welfare". I would encourage the committee reviewing this document to ask themselves....do these zoning regulations truly resolve our purpose or are we overreaching our boundaries as a presiding agency. Also ask the question, what will the impact look like for the residents and businesses of Tulsa County? Are these regulations truly a matter of life safety.....temporary sign permits, container regulations, fireworks restrictions for ALL structures including the County's two indoor fireworks retail locations, chickens, roosters, limitations on number buildings in	

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		<p>unincorporated areas with acres and acres of land, and so many more concerns that were echoed by the comments on this community review document. Are these regulations helping or hurting businesses? Personally, as a business owner and life-long resident of unincorporated Tulsa County, I see more cost, more regulations, more restrictions. If we are going to keep this about public health and safety then let's do just that, reinvent this document for the original purpose that you intended it for. Thank you for your time and consideration! This document is more than just words on paper, the decisions you are making will adversely affect every resident and business in unincorporated Tulsa County. How about we take a different approach....where in this document does it reference partnering with residents and business, to help our community flourish together while keeping safety our number one priority and the prosperity of our constituents the number 2 priority. Let's work to promote and help Tulsa County flourish not by setting stringent restrictions</p>	
40	General Comment on Updated Regulations	<p>The folks who live in the unincorporated areas of Tulsa County are there by choice. If they wanted to be governed by the City of Tulsa, they would have lived inside the city limits. My home community of Berryhill was destroyed by the turnpike. Many lives were affected by decisions of others and without consideration for the people who live there. And now you want to tell them what they can and cannot do on their own property. This is overreach and no changes should be made without community input. As a property owner I am opposed to these changes.</p>	
41	General Comment on Updated Regulations	<p>Why isn't there more time for the public to know about this and have say? People in the country of Tulsa County have no desire to have the same codes as the city. Many don't even know about this to voice their concerns.</p>	
42	General Comment on Updated Regulations	<p>This information wasn't made known to the public in a very widespread way. There should have been more time for residents to know about this. This is a big impact for people living in the country of Tulsa County.</p>	

